

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BRANDON HOWARD,
Plaintiff,

v.

MICHAEL RIHL, et al.,
Defendants.

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CIVIL ACTION NO. 19-CV-5905

ORDER

AND NOW, this 15th day of January, 2020, upon consideration of Plaintiff Brandon Howard's Motion to Proceed *In Forma Pauperis* (ECF No. 1), his Prisoner Trust Fund Account Statement (ECF No. 2), and his *pro se* Complaint (ECF No. 3), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. The Complaint is **DEEMED** filed.
3. For the reasons stated in the Court's Memorandum, Howard's claims against the Bensalem Police Department, Bucks County Office of the District Attorney, and David Heckler are **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).
4. For the reasons stated in the Court's Memorandum, the following claims are **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii):
 - a. All claims against all Defendant in their official capacities;
 - b. All claims against Defendants Ted Krimmel, Bensalem Police Comm., Brian Hessenthaler, and Paul K. Lagana.
5. Howard is given thirty (30) days to file an amended complaint in the event he can allege additional facts to cure the defects in the claims the Court dismissed without prejudice. Any amended complaint shall identify all defendants in the caption of the amended complaint in

addition to identifying them in the body of the amended complaint, shall state the basis for Howard's claims against each defendant, and shall bear the title "Amended Complaint" and the caption 19-5905. If Howard files an amended complaint, his amended complaint must be a complete document that includes all of the bases for Howard's claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. Any amended complaint will replace the original complaint and should not refer back to or depend on the original complaint to state a claim. When drafting his amended complaint, Howard should be mindful of the Court's reasons for dismissing his claims as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

6. If Howard does not file an amended complaint, the Court will direct service of his initial Complaint on Defendant Michael Rihl so Howard may proceed on his remaining individual capacity claim against Rihl. Howard may also notify the Court that he seeks to proceed on his remaining claim against Rihl rather than file an amended complaint. If he files such a notice, Howard is reminded to include the case number for this case, 19-5905.

BY THE COURT:

/s/ Harvey Bartle III
HARVEY BARTLE, III, J.